

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Kenneth Alan McGee and Pamela Diane McGee,)	C/A No.: 4:08-2996-TLW-SVH
)	
)	
Plaintiffs,)	
)	
vs.)	REPORT AND RECOMMENDATION
)	
CitiMortgage, Inc., successor to ABN)	
Amro Mortgage Group, Inc., and ABN)	
Amro Mortgage Group, Inc.)	
)	
Defendants.)	

This breach-of-contract matter is before the court for a report and recommendation pursuant to Local Civil Rule 73.02(B)(2)(e) (D.S.C.). Defendants filed a motion to dismiss pursuant to Federal Rules of Civil Procedure 37(b), 37(d), and 41(b) on December 30, 2009. [Entry #33.] On January 5, 2010, the court advised Plaintiffs, who are proceeding pro se, of the importance of a motion to dismiss and the importance of their filing an adequate response. *See Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975).

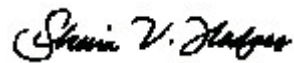
Plaintiffs did not respond to the motion to dismiss despite the *Roseboro* Order's explanation that the matter may be ended if they did not respond. Out of an abundance of caution, the court ordered Plaintiffs on June 1, 2010 to inform the court no later than June 15, 2010, whether they wished to continue to pursue this litigation. [Entry #44.] The court explained that if Plaintiffs did not respond by that deadline, the undersigned would recommend that this action be dismissed with prejudice for failure to prosecute. (*See id.*,

citing Davis v. Williams, 588 F.2d 69, 70 (4th Cir. 1978) and Fed. R. Civ. P. 41(b).)

Plaintiffs failed to submit any response regarding their desire to continue prosecution of this action. Accordingly, it is recommended that Defendants' Motion to Dismiss [Entry #33] be granted and that the district court dismiss this matter with prejudice.

IT IS SO RECOMMENDED.

June 17, 2010
Florence, South Carolina



Shiva V. Hodges
United States Magistrate Judge

Plaintiffs' attention is directed to the important notice on the next page.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk
United States District Court
Post Office Box 2317
Florence, South Carolina 29503

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).